

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No. **P4136-DIV**

In re Application of **Jackson**

Application No. **09/438/333**

ON PETITION

Filed: **June 18, 2001**

For: **A NOVEL METHOD FOR PRODUCTION OF MIXED ALCOHOLS**

Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

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DEC 31 2001

OFFICE OF PETITIONS

Office of Petitions
Office of the Deputy Commissioner
For Patent Examination Policy
Attention: **Brian Hearn**, Senior Petitions Examiner

PETITION UNDER 37 CFR 1.53(e) TO HAVE CPA REQUEST TREATED AS AN APPLICATION UNDER 37 CFR 1.53(b), AND REQUEST TO WAIVE TIME LIMIT

Dear Sir:

This is a petition under 37 CFR 1.53(e) to accept and treat an improper application filed under 37 CFR 1.53(d) as a proper application under 37 CFR 1.53(b).

In response to the notification under 37 CFR 1.53(e)(1) mailed July 19, 2001 indicating that the above Continued Prosecution Application (CPA) request deposited on June 18, 2001 is improper under 37 CFR 1.53(d), and has not been granted a filing date because: (1) the CPA request was filed subsequent to payment of the issue fee in the prior application; and (2) the prior application issued as U.S. Patent No. 6,248,796 on June 19, 2001. Please consider the present petition.

This petition requests that the above-identified application be granted a filing date of June 18, 2001. As reason therefore, applicant states that it has been many years since he has filed a divisional patent application, and that he believed that filing the above identified divisional application by Express Mail on June 18, 2001, the day before the parent issued on June 19, 2001, was a timely and proper filing.

As Assistant Commissioner is aware, practice prior to December 1, 1997 allowed the filing of a divisional or continuation application at any time that the original/parent application was pending, including: (1) subsequent to payment of the issue fee in the prior application; but (2) prior to the date that the prior application issued e.g. up until the day before the original/parent application issued. As noted above, and as shown by the record, undersigned, inadvertently and without deceptive intent, filed the above-identified divisional application by Express Mail on June 18, 2001, the day before the original/parent application issued on June 19, 2001, believing that this was a timely and proper time to file.

Undersigned was unaware of the changes to 37 CFR 1.53(d), apparently effective December 1, 1997, requiring filing prior to the payment of the issue fee. Because of undersigned's lack of knowledge, he inadvertently and without deceptive intent filed the above identified application after the issue fee had been paid, but prior to the date that the prior application issued. Now that undersigned has had his attention called to the current rule, I understand that a mistake was made and indicate that I will make my best professional efforts to avoid making such a mistake in the future, and therefore petition that the above identified application filed under 37 CFR 1.53(d) be granted status as a proper application under 37 CFR 1.53(b) and be granted a filing date of June 18, 2001.

Fee Payment

X The Office is authorized to charge payment of the 37 CFR 1.53(e) fee in the amount of \$ 130.00, and any deficiencies or other fees to Deposit Account 131705. I have enclosed a duplicate copy of this paper.

This petition, it is accompanied by:

- X authorization to charge a deposit account for a petition fee of \$130.00;
- X a true copy of the specification;
- X a true copy of the drawings; and,
- X a true copy of the signed declaration filed in the prior application.

REQUEST TO WAIVE TIME LIMIT

This petition has not been filed within two months of the date of the notice and may be dismissed as untimely under (37 CFR 1.181(f)). It is requested that this time limit be waived, and requests that this petition, that is now filed after two months, be considered, acted on and granted.

As reason therefore, it is first noted that neither the rule nor the statute set a two month response requirement. Therefore, undersigned believes that the two-month requirement is inappropriate, and is therefore unenforceable.

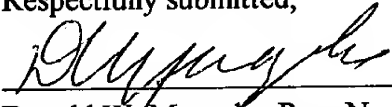
Undersigned further states that when the referenced notice ON PETITION was received, he was working without secretarial or administrative staff. Undersigned next states that nevertheless, he placed the response due date of September 19, 2001 on both his computer Action Docket and hand wrote the due date on his personal desk calendar. Undersigned then states that he failed to note that the two month response date on the notification under 37 CFR 1.53(e)(1) could not be extended. When the September 19, 2001 date arrived, due to the press of other business, undersigned, referring only to his computer Action Docket and desk calendar made a decision that he would take a one month extension of time, i.e. respond by October 19, 2001 as he is now doing. As a result, the present petition has inadvertently been filed more than two months after the date of the notice.

However, due to the lack of statutory basis and undersigned's unintentional lack of attention to the date, it is requested that the two month response period be waived, or, in the alternative that the time for filing the petition be extended to the date of this response.

CONCLUSION

In conclusion, applicants, through their undersigned attorney petitions to have the CPA request accorded a June 18, 2001, filing date under 37 CFR 1.53(b), and that this petition be treated as timely.

Respectfully submitted,


Donald W. Margolis, Reg. No. 22,045
3405 Penrose Place, Suite 105
Boulder, CO 80301
(303) 443-6200

Enclosures

DWM: djb

jacksonpet

CERTIFICATE OF MAILING STATEMENT

I hereby certify that on this date this correspondence is being deposited with the United States Postal Service as first class mail in an envelope with proper postage attached and addressed to: Commissioner of Patents, Non-Fee Amendment, Washington, D.C. 20231.


DONALD W. MARGOLIS, Reg.No. 22,045

October 19, 2001
Date

COPY

DECLARATION — Utility or Design Patent Application

I hereby claim the benefit under 35 U.S.C. 120 of any United States application(s), or 365(c) of any PCT International application designating the United States of America, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of 35 U.S.C. 112, I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application.

U.S. Parent Application or PCT Parent Number	Parent Filing Date (MM/DD/YYYY)	Parent Patent Number (if applicable)
60/108,364	11/13/1998	N/A

☐ Additional U.S. or PCT International application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

As a named inventor, I hereby appoint the following registered practitioner(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

☐ Customer Number

OR

☒ Registered practitioner(s) name/registration number listed below

Place Customer Number Bar Code Label here

Name	Registration Number	Name	Registration Number
Donald W. Margolis	22,045	Emery L. Tracy	34,081

☐ Additional registered practitioner(s) named on supplemental Registered Practitioner Information sheet PTO/SB/02C attached hereto.

Direct all correspondence to: ☐ Customer Number or Bar Code Label

OR ☒ Correspondence address below

Name	Donald W. Margolis				
Address	MARGOLIS & ASSOCIATES				
Address	3405 Penrose Place, Suite 105				
City	Boulder	State	CO	ZIP	80301
Country	U.S.	Telephone	303/443-6200	Fax	303/443-3818

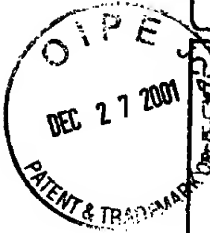
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Name of Sole or First Inventor:

☐ A petition has been filed for this unsigned inventor

Given Name (first and middle (if any))		Family Name or Surname					
GENE R.		JACKSON					
Inventor's Signature	<i>Gene R. Jackson</i>			Date	11/12/99		
Residence: City	Arvada	State	CO	Country	U.S.	Citizenship	U.S.
Post Office Address	6003 Yank Court						
Post Office Address							
City	Arvada	State	CO	ZIP	80004	Country	U.S.

☒ Additional inventors are being named on the _____ supplemental Additional Inventor(s) sheet(s) PTO/SB/02A attached hereto

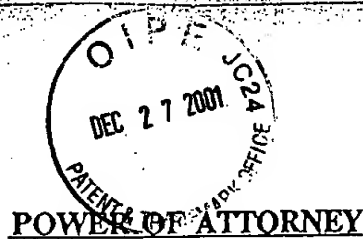


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Docket No.: P4136

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My full name and address is:

DEVINDER MAHAJAN
6 Lily Drive
South Setauket, New York 11720

I verily believe that I am the original, first, and sole inventor of the invention entitled **A NOVEL METHOD OF PRODUCTION OF MIXED ALCOHOLS FROM SYNTHESIS GAS** which is described and claimed in the attached Provisional Patent Application specification;

As the named inventor, I hereby appoint the following attorneys to prosecute my Provisional Patent application and transact all business in the Patent and Trademark Office connected therewith, and with any non-provisional application subsequently filed thereon.

DONALD W. MARGOLIS

Registration Number 22,045

EMERY L. TRACY

Registration Number 34,081

Send Correspondence to:

Donald W. Margolis
3405 Penrose Place, Suite 105
Boulder, CO 80301

Direct Phone calls to:

Donald W. Margolis
(303) 443-6200
FAX (303) 443-3818.

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Signature of Inventor

November 7, 1998
Date of Signature

Devinder Mahajan
DEVINDER MAHAJAN